United Nations A/HRC/38/L.11

General Assembly

Distr.: Limited
2 July 2018

Original: English

Human Rights Council
Thirty-eighth session
18 June–6 July 2018
Agenda item 9
Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up to and implementation of the Durban Declaration and Programme of Action

Angola, Argentina,* Bosnia and Herzegovina,* Brazil, Chile, Cyprus,* Ecuador, Germany, Greece,* Haiti,* Honduras,* Hungary, Madagascar,* Mexico, Montenegro,* Nicaragua,* Nigeria, Paraguay,* Peru, Poland,* Portugal,* San Marino,* Slovenia, Spain, Tunisia, Turkey,* Uruguay:* draft resolution

38/... The incompatibility between democracy and racism

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Reaffirming the Universal Declaration of Human Rights,

Recalling the International Convention on the Elimination of All Forms of Racial Discrimination and other relevant international documents,

Recalling also the commitment reached in the Vienna Declaration and Programme of Action concerning the elimination of racism, racial discrimination, xenophobia and related intolerance,

Recalling further the Durban Declaration and Programme of Action, adopted in September 2001 at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance,

Acknowledging that the Durban Declaration and Programme of Action, in its paragraphs 81 and 85, and the outcome document of the Durban Review Conference, in its paragraphs 10 and 11, recognize the incompatibility between democracy and racism,

Recalling General Assembly resolutions 68/237 of 23 December 2013, in which the Assembly proclaimed the International Decade for People of African Descent, commencing on 1 January 2015 and ending on 31 December 2024, with the theme "People of African d cent: recognition, justice and development", and 69/16 of 18 November 2014, in which it adopted the programme of activities for the implementation of the International Decade for People of African Descent,

Recalling also Human Rights Council resolutions 29/20 of 2 July 2015 and 18/15 of 29 September 2011, Council decision 2/106 of 27 November 2006, and Commission on Human Rights resolutions 2000/40 of 20 April 2000, 2001/43 of 23 April 2001, 2002/39 of

* State not a member of the Human Rights Council.

23 April 2002, 2003/41 of 23 April 2003, 2004/38 of 19 April 2004 and 2005/36 of 19 April 2005, on the incompatibility between democracy and racism,

Bearing in mind all relevant reports of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and of the United Nations High Commissioner for Human Rights with regard to the incompatibility between democracy and racism,

Welcoming the panel discussion on the incompatibility between democracy and racism, held in March 2016 during the thirty-first session of the Human Rights Council, and taking note of the summary report of the High Commissioner on the panel discussion, presented to the Council at its thirty-second session,[1]

Acknowledging the linkage and complementarity of the fight against racism, racial discrimination and xenophobia with the long-term construction of a democratic, non-discriminatory and a multicultural society based on the recognition, respect and promotion of cultural, ethnic and religious diversity,

Remaining alarmed at the rise of racism, racial discrimination, xenophobia and related intolerance in political circles, in the sphere of public opinion and in society at large,

Emphasizing that democracy, transparent, responsible, accountable and participatory governance responsive to the needs and aspirations of the people, and respect for human rights, fundamental freedoms and the rule of law are essential for the effective prevention and elimination of racism, racial discrimination, xenophobia and related intolerance,

Reaffirming that acts of racial violence, incitement to racial hatred or discrimination, inter alia by the dissemination of ideas based on racial or ethnic superiority or hatred, do not constitute legitimate expressions of opinion but rather unlawful acts or offences, and that when government officials and public authorities engage in such acts they undermine the principle of non-discrimination and endanger democracy,

Recognizing the importance of freedom of speech and expression and the fundamental role of education and other active policies in the promotion of tolerance and respect for others and in the construction of pluralistic and inclusive societies,

Acknowledging that the exercise of the right to freedom of expression carries with it special duties and responsibilities, among which the obligation not to disseminate racist ideas is of particular importance, and that freedom of expression shall only be subject to certain restrictions that are provided by law and are necessary for respect of the rights or reputations of others, including the principles of equality and non-discrimination,

Condemning political platforms and organizations based on racism, xenophobia or doctrines of racial superiority and related discrimination, and legislation and practices based on racism, racial discrimination, xenophobia and related intolerance, as incompatible with democracy and transparent and accountable governance,

Emphasizing the importance of States reinforcing their commitment to promoting tolerance and human rights and to fighting against racism, racial discrimination, xenophobia and related intolerance as a way to strengthen democracy, the rule of law and transparent and accountable governance,

Reaffirming that any form of impunity condoned by public authorities for crimes motivated by racist and xenophobic attitudes plays a role in weakening the rule of law and democracy and tends to encourage the recurrence of such acts,

1. *Reaffirms* that racism, racial discrimination, xenophobia and related intolerance condoned by governmental policies violate human rights, as established in the relevant international and regional human rights instruments, and are incompatible with democracy, the rule of law, and transparent and accountable governance;

[1] A/HRC/32/29.

2. *Expresses deep concern* about the rise of extremist political parties, movements and groups that seek to normalize racism, racial discrimination, xenophobia and related intolerance, particularly against migrants and refugees, and about the negative or derogatory stereotypes that incite hatred of and violence against them;

3. *Urges* States to develop comprehensive approaches to counter violent manifestations of racism, racial discrimination, xenophobia and related intolerance, including by extremist political leaders, parties, movements and groups, through solid legal frameworks, complemented by other measures, such as education and awareness-raising programmes and a victim-centred approach;

4. *Decides* to convene an intersessional high-level panel discussion, before the forty-first regular session of the Human Rights Council, to discuss the incompatibility between democracy and racism, with a view to identifying challenges and good practices;

5. *Requests* the United Nations High Commissioner for Human Rights to organize the panel discussion in consultation with States, relevant United Nations bodies, funds and programmes, treaty bodies, special procedures and regional human rights mechanisms, as well as with civil society, non-governmental organizations, national human rights institutions and specialized national equality bodies as appropriate, with a view to ensuring their participation in the panel discussion;

6. *Also requests* the High Commissioner to prepare a summary report on the panel discussion for submission to the Human Rights Council at its forty-second session;

7. *Invites* the relevant mechanisms of the Human Rights Council and the United Nations treaty bodies to continue to pay particular attention to violations of human rights stemming from racism and xenophobia in political circles, especially with regard to their incompatibility with democracy.